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Wells Fargo Bank, N.A.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AT PORTLAND

DUKE TRAN,
Plaintiff,
v.
WELLS FARGO BANK, N.A.,
Defendant.

Case No. 3:15-cv-00979-BR

**EXHIBIT 3, PART 2 TO THE
DECLARATION OF LEAH C. LIVELY**

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By S/ Leah C. Lively
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1 In her call notes on 11/13 of 2014, she
2 states, quote: "Duke states he was terminated
3 yesterday by Peter LeDonne and Kimberly Thrush and
4 Janice Norris. Told him it was misconduct for calls
5 with customer."

6 Do you see that?

7 A. This is something I did not recall it.

8 Q. No, I'm asking if you see that on the
9 page.

10 A. Where is it?

11 MS. LIVELY: It's right here.

12 MS. STEPHENSON: I have a different one.

13 MS. LIVELY: You have something different?

14 MS. STEPHENSON: Sorry.

15 MS. LIVELY: Oh, it's all right. Here.
16 You may have something different.

17 MS. STEPHENSON: He might have the right
18 one.

19 MS. LIVELY: Oh, yeah. No, we have
20 something goofy going on here.

21 All right. I'll give him mine.

22 THE WITNESS: Thank you.

23 MS. LIVELY: He has my highlighted version
24 of it.

25 Q. BY MS. LIVELY: Does that note refresh



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1 your recollection that you told Ms. Anders that you
2 had been told that the reason of your termination
3 was related to misconduct on customer calls?

4 A. I'm not sure who Mr. Ander is.

5 Q. It's somebody at HR.

6 I'm asking you if this refreshes your
7 recollection that, during your termination meeting,
8 you were told that the reason had to do with
9 misconduct on customer calls.

10 A. This I did not recall. But I do know I
11 contact the human resources to ask the reason why I
12 was terminated. I spoke with one of the human
13 resources representative; and I'm not sure if she or
14 he, but they confirm -- I was really concerned why I
15 got terminated, and she would confirm with me
16 because call avoidance.

17 And I asked, "What is call avoidance?" and
18 she explained that what Peter and Kim reported as
19 something like, "Customer say 'hello' and you don't
20 say "hello," you did not respond." So that why the
21 human resources told me that Kim and Peter reported
22 for call avoidance.

23 Q. Would you agree that it would be
24 inappropriate to not respond to a customer on the
25 telephone?



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1 A. I did not recall that.

2 Q. No, I'm asking if that would be
3 inappropriate. Would it -- Would it be bad for a
4 customer service representative to ignore a caller
5 on the phone?

6 A. Yes. Yeah, it's possible, yes.

7 Q. And do you agree that that would be
8 grounds for termination if the customer service
9 agent did that several times?

10 A. That, I did not recall that.

11 Q. Did anyone ever tell you that your race or
12 national origin was a factor in Wells Fargo's
13 decision to terminate your employment?

14 A. That something I did not know of.

15 Q. Do you have any information, from any
16 source, that your race or national origin was a
17 factor that Wells Fargo considered in deciding to
18 terminate your employment?

19 A. Can you repeat that question one more
20 time.

21 Q. Yes. Do you have any information, from
22 any source, that your race or national origin was a
23 factor that Wells Fargo considered in deciding to
24 terminate your employment?

25 A. That something I did not know.



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1 Q. Are you aware of any HEMASS customer
2 service agents who engaged in call avoidance
3 conduct?

4 A. I did not know that. I did not recall it.

5 (Exhibit 77 marked.)

6 THE WITNESS: Thank you.

7 Q. BY MS. LIVELY: Mr. Tran, the court
8 reporter has handed you what's been marked as
9 Exhibit 77, which is a document entitled "addressing
10 inappropriate call handling behaviors and," quote,
11 "call avoidance," end quote.

12 Do you recognize this document?

13 A. This has been for a while. I did not
14 remember.

15 Q. Do you recall that Peter LeDonne asked you
16 to sign this document on August 22nd, 2014, and you
17 refused to sign it?

18 A. I did not remember that.

19 Q. Are you disputing that that happened, or
20 do you just not remember one way or another?

21 A. I did not remember he give me this one.

22 Q. You don't remember if he gave you that
23 one?

24 A. No, ma'am.

25 Q. Do you remember, when Mr. LeDonne



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1 presented you with Exhibit 77 on August 27th, 2014,
2 you responding that you were not going to sign the
3 document because you were working with human
4 resources and would not sign any documents until
5 that was done?

6 A. That is something I did not remember.

7 Q. Do you remember Mr. LeDonne telling you
8 that even if you wouldn't sign Exhibit 77, you were
9 still expected to comply with the policies contained
10 within it?

11 A. I did not recall he said that.

12 Q. Do you have any information -- Strike
13 that.

14 Are you disputing that Mr. LeDonne said
15 that, or do you just not recall?

16 A. I did not recall he gave me this or say
17 anything about this.

18 Q. Is there anything that you could look at
19 that would help you recall?

20 A. Not at this time, ma'am.

21 Q. Is there anything out there that you think
22 you might look at between now and trial, that would
23 help you recall?

24 A. It's possible, yes; but right now I did
25 not remember he did that, he gave that to me.



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1 Q. What would be possible for you to look at,
2 that would help you recall?

3 A. I do not remember.

4 Q. Mr. Tran, do you have any reason to
5 dispute that the policy contained within Exhibit 77
6 applied to HEMASS customer service agents in your
7 location?

8 A. I'm sorry. Can you repeat it one more
9 time.

10 Q. Yeah. Do you have any reason to dispute
11 that the policies contained within Exhibit 77
12 applied to HEMASS customer service agents in your
13 location?

14 A. That something I did not know.

15 Q. Do you have any reason to believe that
16 Exhibit 77 was only given to you?

17 A. I did not recall at that time. Yeah, I
18 don't remember.

19 Q. In Exhibit 77, towards the middle, there's
20 a definition and then it says, quote, call
21 avoidance, end quote. Do you see that?

22 A. Where do I see that?

23 Q. In the middle, just above the bullet
24 points.

25 MS. STEPHENSON: Right here.



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1 Q. BY MS. LIVELY: Go ahead.

2 A. I'm not recalling this. I did not see
3 that before.

4 Q. I'm not asking if you saw this. I'm
5 asking you if you have any information to dispute
6 that Wells Fargo honestly believed that you had
7 engaged in call avoidance, did not honestly believe
8 that you engaged in call avoidance.

9 MS. STEPHENSON: Objection. Calls for
10 speculation.

11 THE WITNESS: I did not understand the
12 question. I'm sorry.

13 Q. BY MS. LIVELY: Okay. Do you have any
14 information that Wells Fargo didn't believe, at the
15 time they terminated you, that you'd committed call
16 avoidance?

17 MS. STEPHENSON: Objection. Calls for
18 speculation.

19 THE WITNESS: I did not recall that.

20 Q. BY MS. LIVELY: Do you have any
21 information that they didn't believe that?

22 MS. STEPHENSON: Calls for speculation.

23 THE WITNESS: I did not know.

24 MS. LIVELY: Okay. Let's take a break.

25 THE VIDEOGRAPHER: This marks the end of



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1 media 2. Going off the record. The time is 2:15
2 p.m.

3 (Recess.)

4 Q. BY MS. LIVELY: We are back on the record
5 in this matter.

6 Mr. Tran, do you realize that you're still
7 under oath?

8 A. Yes, I do.

9 Q. Mr. Tran, I'm now going to play for you a
10 series of telephone calls that have been produced in
11 this litigation. The first call that I'm going to
12 play for you was produced in this litigation as
13 Wells Fargo 1385, and I'd like you to go ahead and
14 listen to it. And it's segment number, for the
15 record, 764230698.

16 (Reporter request.)

17 (Audio clip played; not reported.)

18 Q. BY MS. LIVELY: Mr. Tran, do you have any
19 basis to dispute -- Sorry.

20 Mr. Tran, do you have any basis to dispute
21 that the call produced as Wells Fargo 1385 was not
22 an inbound call to you on July 3rd, 2014?

23 A. I did not recall this.

24 Q. I'm asking you if you have any information
25 to dispute that that's a call -- an inbound call



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1 that came to you on July 3rd, 2014.

2 MS. STEPHENSON: Objection. Calls for
3 speculation.

4 THE WITNESS: I apologize. The one you
5 just playing?

6 MS. LIVELY: Yes.

7 THE WITNESS: The one you played here?

8 MS. LIVELY: Yes.

9 THE WITNESS: Yeah, I did know anything.
10 All I heard was just "hello."

11 O. BY MS. LIVELY: Right. I understand that.

12 I'm asking you if you have anything to
13 dispute that that call is one that appears as an
14 inbound call to your number on July 3rd, 2014.

15 MS. STEPHENSON: Objection. Calls for
16 speculation.

17 THE WITNESS: I apologize. I did not know
18 it was inbound or outbound call.

19 O. BY MS. LIVELY: So you have nothing to
20 dispute that's an inbound call?

21 A. I did not know.

22 O. You didn't know one way or the other; is
23 that fair to say?

24 A. I did not know that that my call or not.

25 O. Okay. That's what I'm asking. Do you



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1 have any information to dispute whether that's your
2 call?

3 A. I do not know.

4 Q. Is there anything that you could look at
5 that would help you know?

6 A. It's been a long time for that electronic
7 voice. I did not recall it.

8 Q. Do you have any information that Wells
9 Fargo did not honestly believe that the call
10 produced as Wells Fargo 1385 was an inbound call to
11 your number?

12 A. Nothing for me to record inbound or
13 outbound call. I did not know.

14 Q. As you sit here today, what information do
15 you have that Wells Fargo did not honestly believe
16 that the call produced as 1385 was not an inbound
17 call to you?

18 A. I did not know what Wells Fargo did in
19 that call. I do not know.

20 Q. All right. I'm now going to play for you
21 a call that was produced in this litigation as Wells
22 Fargo 1386, segment ID 764230742.

23 (Audio clip played; not reported.)

24 Q. BY MS. LIVELY: Mr. Tran, as you sit here
25 today, do you have any information to dispute that



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1 the call produced as Wells Fargo 1386 was an inbound
2 call to you on July 3rd, 2014?

3 MS. STEPHENSON: Objection. Calls for
4 speculation.

5 THE WITNESS: I did not know the recorded
6 call. I did not know.

7 Q. BY MS. LIVELY: I'm asking if, as you sit
8 here today, you can point me to any evidence that
9 this was not a call received by you?

10 MS. STEPHENSON: Calls for speculation.

11 THE WITNESS: I did not hear anything.
12 All I just hear "hello." I did not know what is --
13 what is that all about, what the record is about.

14 Q. BY MS. LIVELY: If you would have been
15 having problems with your headset or computer
16 malfunctioning on July 3rd, 2014, would you have
17 told somebody?

18 A. Yes.

19 Q. Mr. Tran, as you sit here today, do you
20 have any information that Wells Fargo did not
21 honestly believe that the call produced as Wells
22 Fargo 1386 was an inbound call received by you on
23 July 3rd, 2014?

24 MS. STEPHENSON: Calls for speculation.

25 THE WITNESS: I have no record to know if



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1 it inbound or outbound call.

2 Q. BY MS. LIVELY: That's not what I'm asking
3 you, sir.

4 I'm asking you if, as you sit here today,
5 you have any information, from any source, that
6 Wells Fargo didn't actually believe that that call
7 was a call that came inbound to you?

8 A. That, I did not know what -- what Wells
9 Fargo have that record. I did not know.

10 Q. So you don't know one way or another
11 whether Wells Fargo thought this was an inbound call
12 to you or didn't think this was an inbound call to
13 you?

14 A. I did not know at all.

15 Q. I'm now going to play for you a call that
16 was produced in this litigation as Wells Fargo 1387,
17 segment number 764395722.

18 (Audio clip played; not reported.)

19 Q. BY MS. LIVELY: Mr. Tran, do you have --
20 as you sit here today, do you have any basis to
21 dispute that the call produced in this litigation as
22 Wells Fargo 1387 was not an inbound call made to
23 your number on July 24th, 2014?

24 MS. STEPHENSON: Objection. Lack of
25 foundation. Calls for speculation.



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1 Q. BY MS. LIVELY: Go ahead.

2 A. It no way for me to know if inbound or
3 outbound call. I did not record it. It's
4 electronic voice. I did not record it.

5 Q. So do you have any information that
6 disputes that it was an inbound call to you?

7 MS. STEPHENSON: Lack of foundation.
8 Calls for speculation.

9 THE WITNESS: I do not know.

10 Q. BY MS. LIVELY: Okay. And do you -- As
11 you sit here today, what information do you have, if
12 any, that Wells Fargo did not honestly believe that
13 the call produced as 1387 was an inbound call to you
14 on September 24th, 2014?

15 MS. STEPHENSON: Objection. Lack of
16 foundation. Calls for speculation. Assumes facts
17 not in evidence.

18 Q. BY MS. LIVELY: Go ahead.

19 A. I did not know.

20 Q. Do you have any information that Wells
21 Fargo did not honestly believe call 1387 was an
22 inbound call to you?

23 MS. STEPHENSON: Same objection.

24 THE WITNESS: I do not know it's inbound
25 or outbound call, based on that electronic voice.



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1 Q. BY MS. LIVELY: Okay. That's not what I'm
2 asking.

3 I'm asking you if you have any
4 information, any evidence, that Wells Fargo did not
5 believe that call 1387 was an inbound call to you.

6 MS. STEPHENSON: Same objection.

7 Q. BY MS. LIVELY: Do you have any such
8 evidence?

9 MS. STEPHENSON: Same objection.

10 THE WITNESS: I don't know how to answer
11 that question.

12 Q. BY MS. LIVELY: Well, do you -- if you
13 were going to testify at trial, "This is the
14 information I have to prove that Wells Fargo didn't
15 think this was a real call," what would you say?

16 MS. STEPHENSON: Objection. Lack of
17 foundation. Assumes facts not in evidence.

18 THE WITNESS: Yeah, I don't know what --
19 what the system, what Wells Fargo provide today.
20 I'd be -- I do not know.

21 Q. BY MS. LIVELY: So is it fair to say that
22 you don't have any information that Wells Fargo
23 didn't believe this was an inbound call to you on
24 September 24th, 2014?

25 MS. STEPHENSON: Same objection. Asked



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1 and answered.

2 THE WITNESS: I did not know; so nothing

3 for me believe or not, because I did not know.

4 Q. BY MS. LIVELY: I'm next going to play for
5 you a call that was produced in this litigation as
6 Wells Fargo 1388, segment ID 764398837.

7 (Audio clip played; not reported.)

8 Q. BY MS. LIVELY: Mr. Tran, as you sit here
9 today, do you have any basis to dispute that the
10 phone call produced in this litigation as Wells
11 Fargo 1388 was an inbound call to you on September
12 24th, 2014?

13 MS. STEPHENSON: Objection. Lack of
14 foundation. Assumes facts not in evidence. Calls
15 for speculation.

16 Q. BY MS. LIVELY: Go ahead.

17 A. Yeah, I did not know.

18 Q. So do you have any evidence to dispute
19 that this was an inbound call to you?

20 MS. STEPHENSON: Same objection.

21 THE WITNESS: Yeah, I do not know what it
22 is, so...

23 Q. BY MS. LIVELY: So you can't dispute it
24 one way or another?

25 A. I'm not sure what it is, so I cannot tell



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1 you I dispute it because I do not know.

2 Q. And do you have any information that Wells
3 Fargo did not honestly believe that the call
4 produced as 1388 was an inbound call to you on July
5 24th, 2014?

6 MS. STEPHENSON: Same objection.

7 Q. BY MS. LIVELY: Go ahead.

8 A. Yeah, I do not know about a call.

9 Q. I'm asking if you have any -- As you sit
10 here today, do you have any information that Wells
11 Fargo didn't believe that call 1388 was an inbound
12 call made to your number on July 24th?

13 A. I do not know.

14 MS. STEPHENSON: Same objection. Asked
15 and answered.

16 Q. BY MS. LIVELY: You don't know.

17 All right. I'd now like to play for you
18 the call that was produced in this litigation as
19 Wells Fargo 1389.

20 (Audio clip played; not reported.)

21 Q. BY MS. LIVELY: And, for the record, Wells
22 Fargo 1389 is segment ID 764398837.

23 Mr. Tran, do you have any basis to dispute
24 that the call produced in this litigation as Wells
25 Fargo 1388 was an inbound call to you from September



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1 24th, 2014?

2 MS. STEPHENSON: Objection. Lack of
3 foundation. Calls for speculation. Assumes facts
4 not in evidence.

5 THE WITNESS: I did not know.

6 Q. BY MS. LIVELY: And do you have any
7 information that Wells Fargo did not honestly
8 believe the call produced in this litigation as
9 Wells Fargo 1388 was an inbound call to you on
10 September 24th, 2014 -- I mean on July 24th, 2014?

11 MS. STEPHENSON: Same objection.

12 THE WITNESS: No.

13 Q. BY MS. LIVELY: Do you have any such
14 information?

15 MS. STEPHENSON: Same objection.

16 THE WITNESS: I did not know about a call.

17 Q. BY MS. LIVELY: Well, do you have any
18 information that Wells Fargo didn't believe this was
19 an inbound call to you?

20 MS. STEPHENSON: Same objection.

21 THE WITNESS: I did not know.

22 Q. BY MS. LIVELY: As you sit here today, do
23 you have any information that Wells Fargo didn't
24 actually believe this was an inbound call to you on
25 September 24th, 2014?



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1 MS. STEPHENSON: Same objection. Asked
2 and answered.

3 THE WITNESS: I did not know.

4 Q. BY MS. LIVELY: Mr. Tran, I'm now going to
5 play for you a call produced in this litigation as
6 Wells Fargo 1390, segment ID 764398878.

7 (Audio clip played; not reported.)

8 Q. BY MS. LIVELY: Mr. Tran, do you have any
9 basis to dispute that the call produced in this
10 litigation as Wells Fargo 1390 was an inbound call
11 to your number on July 24th, 2014?

12 MS. STEPHENSON: Objection. Lack of
13 foundation. Calls for speculation. Assumes facts
14 not in evidence.

15 THE WITNESS: Yeah, I have no -- I did not
16 know about inbound or outbound call.

17 Q. BY MS. LIVELY: So do you have any
18 information to dispute that that was an inbound call
19 to you?

20 MS. STEPHENSON: Same objection.

21 THE WITNESS: I did not know, ma'am.

22 Q. BY MS. LIVELY: As you sit here today, do
23 you know whether that was an inbound call to you?

24 MS. STEPHENSON: Same objection.

25 THE WITNESS: I did not know what it is.



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1 Q. BY MS. LIVELY: Do you have any
2 information that Wells Fargo did not honestly
3 believe the call produced as 1390 was an inbound
4 call to you on July 24th, 2014?

5 MS. STEPHENSON: Same objection.

6 THE WITNESS: I have no way to know what
7 Wells Fargo have this. I did not know. I'm sorry.

8 Q. BY MS. LIVELY: So does that mean you
9 don't -- you don't know one way or another whether
10 Wells Fargo honestly believed this was an inbound
11 call to you on July 24th, 2014?

12 MS. STEPHENSON: Same objection.

13 THE WITNESS: Yeah, I did not know.

14 Q. BY MS. LIVELY: I'm now going to play a
15 call for you that was produced in this litigation as
16 Wells Fargo 1396, segment ID 778320431.

17 (Audio clip played; not reported.)

18 Q. BY MS. LIVELY: Mr. Tran, do you have any
19 information to dispute that the call produced in
20 this litigation as Wells Fargo 1396 was an inbound
21 call to you from October 28th, 2014?

22 MS. STEPHENSON: Objection. Lack of
23 foundation. Calls for speculation. Assumes facts
24 not in evidence.

25 Q. BY MS. LIVELY: Go ahead.



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1 A. I have no way to know it is an inbound
2 call. I do not know.

3 O. Do you have any information that Wells
4 Fargo did not honestly believe the call produced as
5 1396 was an inbound call to you on October 28th,
6 2014?

7 MS. STEPHENSON: Same objection.

8 THE WITNESS: I did not know.

9 O. BY MS. LIVELY: Do you have any such
10 information?

11 MS. STEPHENSON: Same objection.

12 THE WITNESS: I do not know.

13 O. BY MS. LIVELY: Now I'd like to play for
14 you a call that was produced in this litigation as
15 Wells Fargo 1398, segment ID 778320913.

16 (Audio clip played; not reported.)

17 O. BY MS. LIVELY: Mr. Tran, do you have any
18 information to dispute that the call produced in
19 this litigation as 1398 was an inbound call to you
20 on October 28th, 2014?

21 MS. STEPHENSON: Objection. Lack of
22 foundation. Calls for speculation. Assumes facts
23 not in evidence.

24 THE WITNESS: Yeah, I have no way to know
25 that's an inbound or outbound call. I did not know.



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1 Q. BY MS. LIVELY: So do you have any
2 information to dispute that that was an inbound call
3 to you from October 28th?

4 MS. STEPHENSON: Same objections.

5 THE WITNESS: I did not know that.

6 Q. BY MS. LIVELY: Do you have any
7 information that Wells Fargo did not honestly
8 believe that the call produced as 1398 was an
9 inbound call to your number on October 28th, 2014?

10 MS. STEPHENSON: Same objections.

11 THE WITNESS: I have no way to know what
12 the inbound call is.

13 Q. BY MS. LIVELY: That's not what I'm
14 asking. I'm asking if, as you sit here today, you
15 have information.

16 What information do you have that Wells
17 Fargo did not honestly believe that the call
18 produced as 1398 was an inbound call to you from
19 October 28th, 2014?

20 MS. STEPHENSON: Same objections.

21 THE WITNESS: I did not know.

22 Q. BY MS. LIVELY: Do you have any such
23 information that Wells Fargo didn't honestly believe
24 that?

25 MS. STEPHENSON: Same objections.



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1 THE WITNESS: I did not know that.

2 Q. BY MS. LIVELY: Mr. Tran, are you aware of
3 any HEMASS customer service agent who remained
4 silent on the line, as we just heard in these phone
5 calls, when a customer was saying, "Hello? Hello?"
6 Are you aware of anyone who did that?

7 A. Say it one more time, please.

8 Q. Yeah. Are you aware of any of your
9 colleagues or co-workers, any other HEMASS customer
10 service agents, who remained silent on the line with
11 a customer when the customer was saying, "Hello?
12 Hello?"

13 A. Not that I know of.

14 Q. Would you agree that that would be
15 inappropriate to remain silent on the line while the
16 customer was saying, "Hello? Hello?"

17 A. You mean inappropriate?

18 Q. Yes. Would it be wrong to do?

19 A. Yes.

20 Q. Do you have any personal knowledge of what
21 factors Wells Fargo considered in deciding to
22 terminate your employment in November of 2014?

23 A. Can you repeat the question one more time,
24 please, Counsel.

25 Q. Yes, of course. Do you have any personal



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1 which you were terminated, was your race or national
2 origin discussed?

3 A. I'm sorry. Could you repeat the question.

4 Q. Sure. Was your race or national origin
5 brought up during the meeting where you learned you
6 were being terminated?

7 A. You mean the last meeting, the last one?

8 Q. Yes, where you learned you were being
9 terminated.

10 A. Not that I know of.

11 Q. Did anyone at the meeting where you were
12 told you were terminated discuss the fact that you
13 had taken family leave?

14 A. Not that I recall.

15 Q. During the meeting at which you found out
16 you were terminated, did anyone discuss the fact
17 that you had reported unlawful activity regarding
18 concealing missing loan documents from customers?

19 A. Not that I recall.

20 Q. Do you have -- As you sit here today, what
21 information do you have that Wells Fargo considered
22 your report of missing -- concealing missing
23 customer loan documents in connection with your
24 termination?

25 A. Can you explain one more time, please.



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1 I'm sorry.

2 Q. What information or evidence do you have
3 that Wells Fargo considered your report of
4 concealing missing loan documents as a factor in
5 your termination?

6 MS. STEPHENSON: Objection. Calls for a
7 legal conclusion.

8 THE WITNESS: I didn't understand the
9 question. I'm sorry.

10 Q. BY MS. LIVELY: Do you have any
11 information that Wells Fargo considered your report
12 of unlawful activity regarding loan documents as a
13 factor in your termination?

14 MS. STEPHENSON: Same objection.

15 THE WITNESS: I'm not sure what Wells
16 Fargo have. I do not know.

17 Q. BY MS. LIVELY: Mr. Tran, do you have any
18 information that other HEMASS customer service
19 agents at your location were provided with more
20 training compared to you?

21 A. I did not recall that.

22 Q. Mr. Tran, are you aware of other HEMASS
23 customer service agents in your location who
24 averaged below 95 percent on his or her CMP scores
25 for three consecutive months?



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1 A. I did not know about other team member
2 score.

3 Q. Do you have any information that other
4 customer service agents who averaged below 95
5 percent on CMP scores for three consecutive months
6 were not issued informal warnings?

7 A. I did not know about other team member.
8 I'm sorry.

9 Q. It's okay. Are you aware of any other
10 HEMASS customer service agents in your location who
11 refused to attend weekly one-on-one coaching
12 sessions with their supervisors?

13 A. Nothing I recall, but I did not know about
14 other team member.

15 Q. Mr. Tran, are you aware of any HEMASS
16 customer service agents at your location who refused
17 to attend team meetings?

18 A. I did not know about other team member.

19 Q. Mr. Tran, are you aware of any HEMASS
20 customer service agents at your location who were
21 observed by a supervisor to be working on personal
22 items during after-call work after being instructed
23 not to?

24 A. I'm not -- I'm sorry. I did not know
25 about other team member and other supervisor.



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1 Q. Do you agree that after-call work was
2 supposed to be used for finishing up notes from
3 customer calls?

4 A. I apologize. Can you repeat that one more
5 time.

6 Q. Sure. Do you agree that after-call work
7 was supposed to be used for finishing up notes from
8 customer calls?

9 A. You mean notated in the -- Yes.

10 Q. And would you agree that after-call work
11 was not supposed to be used for working on personal
12 items unrelated to work?

13 A. That, I did not recall that.

14 Q. Did you think it was acceptable to use
15 after-call work to send personal e-mails?

16 A. Not that I know of.

17 Q. That's what I'm trying to find out, is if
18 -- Did you understand that after-call work was
19 supposed to be specific to the noting?

20 A. "After call," I didn't mean -- I didn't
21 know what you meant by "after call."

22 Q. You don't know what after-call work is?

23 A. It's been for a while. Sorry, I don't
24 remember.

25 Q. You don't remember?



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1 These appear to be e-mails between you and
2 other Wells Fargo employees regarding the loan where
3 -- regarding the customer with the missing loan
4 documents, that we just looked at in Exhibit 69. Is
5 that correct?

6 A. I apologize. Can you say it one more
7 time.

8 Q. Yes. Are the e-mails in Exhibit 79, the
9 e-mails that are contained within 79, referring to
10 the same customer that we just looked at the notes
11 on in Exhibit 69?

12 A. May I take a look at it?

13 Q. Yes.

14 A. Please. Thank you. Yeah, it is related.

15 Q. Did you understand, during the time that
16 you were a HEMASS customer service agent, that there
17 were locations other than Clipper where customer
18 documents might be stored?

19 A. I've been instructed by the management and
20 training, we have to look it up in Clipper, that the
21 main system would load it from the vault transfer to
22 the HEMASS Clipper; so that why we instructed to
23 look it up in the Clipper to see any document.

24 Q. Right. I understand that.

25 My question is: Did you have an



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1 understanding that, if something couldn't be found
2 in Clipper, that these research employees may be
3 able to find the document somewhere else?

4 A. Yes. That what they -- They give the
5 disposition code, because the Clipper can tell the
6 employee, if no document in the Clipper, instructed
7 to give -- to give you the code. So the code stand
8 LU, that mean it loan unsecured. And you take that,
9 you take the disposition code, that why you got the
10 EOD (indiscernible) in there, and we have to put
11 that in the note.

12 Q. Okay. I'm not sure if that answered the
13 question.

14 My question was: Did you have an
15 understanding, when you were a customer service
16 agent, that if you couldn't find something in the
17 Clipper system, a research employee had other places
18 where they might be able to find the document?

19 A. Possible, yes.

20 Q. Okay.

21 A. But with my understanding from the Clipper
22 and the disposition specialize work for the home
23 equity department, if we don't have any document,
24 they could be showed that right there. That why we
25 escalate them to HEMASS group; it would transfer



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1 them to the Virginia processing document from the
2 vault.

3 Q. And did you understand that the vault was
4 a place where documents might be before they got
5 loaded into the Clipper system?

6 A. All I know, it's just from the e-mail what
7 Michael respond back to me in the policy for
8 follow-up.

9 Q. Okay. So getting back to my original
10 question: Did you understand that not every
11 customer document might have been included in the
12 Clipper system?

13 A. Yeah, I'm not sure what Wells Fargo did
14 with that part.

15 Q. Okay. And can you understand why Wells
16 Fargo would want to make sure that they had looked
17 in all their different places for a customer
18 document before telling a customer that document
19 doesn't exist?

20 A. I think because the customer requesting,
21 the balloon would end it, and customer want to know
22 where the document is. So Wells Fargo, the lender,
23 to respond to the customer to research. So if we
24 don't have any document, then I'm not sure what
25 Wells Fargo to do with that.



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1 Q. Okay. But I guess what I'm asking is:

2 Did you understand that Wells Fargo wanted its

3 agents to make sure that the research was done?

4 A. Based on the e-mail, yes.

5 Q. Okay. All right. It appears from
6 Exhibit 79 like that Michael Scott Childress was
7 also a customer service representative; is that
8 correct?

9 A. I'm not sure what his title when he move
10 up to the -- to the HEMASS escalation group.

11 Q. Was he a manager in December 2013?

12 A. I did not work with Mike at the same
13 group. I did not know. But I -- I did not know he
14 handle this until he put me a team lead. At that
15 point, I do not know.

16 Q. Okay. Do you know one way or another
17 whether Mr. Childress was a manager?

18 A. He's a part of the research group.

19 Q. Right. I'm asking whether you know if he
20 was a manager.

21 A. I do not recall that.

22 Q. And if you look at the bottom of the first
23 page of Exhibit 79, there's an e-mail from somebody
24 named Cheryl Fuquay to Angel Brown.

25 Do you see that e-mail? It's at the very



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1 remember who that was.

2 Q. Okay. And do you remember what the team
3 lead told you?

4 A. We look it up on Clipper.

5 Q. Okay. Did the team lead tell you -- Was
6 the team lead a male or female, do you remember?

7 A. It's a female.

8 Q. Okay. Do you remember if it was Heather
9 Stone?

10 A. I don't remember.

11 Q. Okay. So you looked it up on Clipper, and
12 then what happened?

13 A. Then the Clipper system will tell you if
14 the customer have any inmate, like a document --

15 Q. Right. I'm trying, Mr. Tran, to figure
16 out this situation that is the basis for your
17 lawsuit.

18 You're alleging that you reported what you
19 thought to be unlawful activity; and so I'm trying
20 to figure out when you made that report, who you
21 made that report to.

22 Did you ever make a report to anyone at
23 Wells Fargo, that you thought an employee of Wells
24 Fargo was violating a law or rule or regulation?

25 A. I did not at that time.



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1 Q. Did you at any time?

2 A. I did not.

3 Q. Did you ever lie to a customer about
4 whether their loan documents were missing?

5 A. Because we have a call monitor, we cannot
6 lie to the customer. That where CMP came from.

7 Q. CMP is very strict; is that right?

8 A. Yes.

9 Q. Did you think it was -- Did Mr. LeDonne
10 ever tell you that you should lie to the customer
11 about missing documents?

12 A. I -- I think, in March, when we have
13 Nathan e-mail me and he want to know why the last
14 three month we don't follow up.

15 Q. Okay. I want to make sure I'm following
16 you.

17 So you're saying Peter -- We looked at
18 when Nathan e-mailed, right, and said the last agent
19 didn't follow up?

20 A. That's me.

21 Q. That's you?

22 A. Yes.

23 Q. Okay. And then Peter came to you to find
24 out why you didn't follow up? I'm just trying to
25 follow what's happening here.



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1 A. I think Peter probably know this. When we
2 send to HEMASS, it was under my name, his direction;
3 he probably see that.

4 Q. Okay. I understand that.

5 What I'm asking is: As you -- As you sit
6 here, do you recall you and Peter having a
7 discussion about that account?

8 A. Yes. He came to me. He said --

9 Q. Okay.

10 A. -- they hire a lawyer. And he told me I
11 put the company at risk.

12 Q. Why -- Did he say why you put the company
13 at risk?

14 A. That with him, him and Heather. I did not
15 know. I'm not sure what he did.

16 Q. Okay. So I'm trying to understand what
17 happened here.

18 So, at some point in time, Peter comes to
19 you and says they've hired -- that this customer has
20 hired a lawyer.

21 When -- When in time did Peter come to you
22 and tell you that?

23 A. Oh, I do not remember. I think before
24 that, probably before the e-mail sent out in April.

25 Q. Before that? Close in time?



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1 A. Yeah, I'm not sure. Yeah.

2 Q. Okay. So Peter tells you the customer has
3 hired a lawyer.

4 What's your best recollection, like if
5 you're -- again, if you're going to be at trial, in
6 front of a jury and a judge, and you're going to
7 say, "This is what Peter said to me," what -- what
8 are you going to say?

9 A. Well, I'm afraid what -- what Peter said;
10 because he said, if I tell the customer one more
11 time, that I could be lost my job.

12 Q. If you tell the customer what one more
13 time?

14 A. You know, about like no document,
15 something like the April sent out or something like
16 that. You know, we not allowed to tell the
17 customer. I'm not sure what happened in the
18 conversation with other supervisor is.

19 Q. So you're -- Mr. Tran, this is my only
20 opportunity to find out what your recollection of
21 your conversation with Peter was like.

22 Your recollection is that Peter talks to
23 you and tells you the customer has an attorney,
24 you're putting the company at risk, and you're not
25 allowed to tell this customer what happened to their



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1 December 13, saying, "We don't have that document
2 already on file." But it took three month for
3 Heather to -- for Heather to follow up and Nathan to
4 follow up to confirm we don't have no document.

5 Q. Did --

6 A. That why it come back to me in March and
7 April.

8 Q. Did you think Peter was doing anything
9 unlawful by not telling customers that their
10 documents were missing?

11 A. I have no idea what -- what Peter do.

12 Q. Well, I'm asking if you thought what -- if
13 you thought that not telling customers their
14 documents were missing was unlawful?

15 A. I didn't know at that time. I didn't
16 recall it.

17 MS. LIVELY: All right. Let's take a
18 break.

19 THE VIDEOGRAPHER: Going off the record.
20 This marks the end of media 3. The time is
21 3:54 p.m.

22 (Recess.)

23 THE VIDEOGRAPHER: Going back on the
24 record. This marks the beginning of media 4. The
25 time is 4:08 p.m.



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1 MS. LIVELY: The nine -- eight.

2 MS. STEPHENSON: Is it the 08/26 one?

3 MS. LIVELY: 08/26.

4 MS. STEPHENSON: Yeah.

5 MS. LIVELY: Okay. Sixteen?

6 MS. STEPHENSON: Yep.

7 Q. BY MS. LIVELY: Mr. Tran, you have before

8 you Exhibit 16, which is a document previously

9 marked in this case, an exhibit previously marked in

10 this case.

11 Do you recognize Exhibit 16?

12 A. I do not remember.

13 Q. Do you remember receiving an informal

14 warning related to your CMP scores?

15 A. Yes.

16 Q. And do you remember receiving that

17 informal warning on or around August 26th, 2014?

18 A. I do not remember exactly what date.

19 Q. Does the end of August sound about right?

20 A. I'm not sure about that.

21 Q. Do you have any reason to dispute that you
22 received the informal warning on August 26th, 2014?

23 A. I would dispute it, yes.

24 Q. You'd dispute it?

25 A. Yes.



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1 Q. Okay. When did you receive the informal
2 warning for CMP?

3 A. I do not remember.

4 Q. No. No, I think -- I think I just
5 realized what we're saying.

6 I'm just asking you whether you dispute
7 the date that you got this.

8 A. I do not remember what date.

9 Q. Okay.

10 A. Yeah, I'm sorry.

11 Q. But you're not disputing the fact that
12 Wells Fargo tried to give you this document?

13 A. I did not remember.

14 Q. You don't remember somebody at Wells Fargo
15 trying to give you this informal warning?

16 A. I remember disputing it, but I did not
17 remember --

18 Q. You don't remember somebody trying to
19 issue this to you?

20 A. It's been for a while. I forgot about it.

21 Q. Okay. Do you have any information that

22 Wells Fargo did not believe your CMP scores were

23 below 95 percent for June, July, and August, at the

24 time they issued you the informal warning?

25 MS. STEPHENSON: Objection. Lack of



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1 foundation. Calls for speculation. Assumes facts
2 not in evidence.

3 THE WITNESS: I did not remember, Counsel.

4 Q. BY MS. LIVELY: Well, I'm not asking if
5 you remember.

6 I'm asking: Do you have any information,
7 do you have any evidence, that Wells Fargo didn't
8 honestly believe your CMP scores were as reflected
9 on Exhibit 16?

10 MS. STEPHENSON: Same objections.

11 THE WITNESS: I did -- I did not recall at
12 that time.

13 Q. BY MS. LIVELY: You -- I don't understand
14 your response of "I don't recall."

15 Do you -- As you sit here today, do you
16 have any information that Wells Fargo didn't believe
17 these were your CMP scores?

18 MS. STEPHENSON: Same objections.

19 THE WITNESS: I do not remember. It been
20 for a while.

21 Q. BY MS. LIVELY: At the time, did you have
22 any information that Wells Fargo did not believe
23 that the CMP scores listed in Exhibit 16 were
24 accurate?

25 MS. STEPHENSON: Same objections.



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1 THE WITNESS: I know I disputing it, but I
2 didn't know -- I did not know.

3 Q. BY MS. LIVELY: Right. I know you
4 disputed it, but -- but did you have -- do you have
5 any information that either Peter LeDonne or
6 Kimberly Thrush knew or thought that the CMP scores
7 were inaccurate?

8 MS. STEPHENSON: Same objections.

9 THE WITNESS: I do not remember. I was
10 disputing it and they coming back. I'm not sure
11 what month it was overturned.

12 Q. BY MS. LIVELY: Well, one of -- one of the
13 violations was overturned; correct?

14 A. I do not remember that.

15 Q. Okay. Did the issuance of the August 26th
16 informal warning alter the benefits that you were
17 eligible for or received at Wells Fargo?

18 A. I apologize. I didn't understand the
19 question.

20 Q. Well, did your benefits -- your 401(k),
21 your health insurance -- did any of that change when
22 you got the informal warning?

23 A. No, ma'am.

24 MS. STEPHENSON: Objection. Lack of
25 foundation.



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1 Q. BY MS. LIVELY: Did your pay rate change
2 when you received the August 26th informal warning?

3 A. No, ma'am.

4 Q. Did the number of hours that you worked
5 each week change after you got the August 26th
6 informal warning?

7 A. No, ma'am.

8 Q. Did your job duties as a customer service
9 representative change after you got the August 26th
10 informal warning?

11 A. Not -- No, ma'am.

12 Q. Who delivered the August 26th informal
13 warning to you?

14 A. I did not remember.

15 Q. Is there anything that you could look at
16 that would help you remember?

17 A. Not that I know of right now.

18 Q. Do you know what factors Wells Fargo
19 considered in deciding to issue you the August 26th,
20 2014, informal warning?

21 A. I did not remember that. I'm sorry.

22 Q. Okay. Is there anything that you could
23 look at that would help you remember?

24 A. Not that I know of right now.

25 Q. When -- When the August 26th informal



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1 warning was issued to you, did anyone mention the
2 fact that you had taken family leave?

3 A. That something I did not recall. I do not
4 remember that.

5 Q. When the August 26th informal warning was
6 issued to you, did anyone mention the issue of
7 missing customer documents?

8 A. Not that I recall it.

9 Q. Do you have any information that Wells
10 Fargo considered your report of concealing missing
11 loan documents from customers as a factor in issuing
12 you the August 26th informal warning?

13 A. Can you repeat that question one more
14 time.

15 Q. Sure.

16 A. I apologize. I couldn't understand the
17 question.

18 Q. No, no. That's fine.

19 Do you have any information that Wells
20 Fargo considered your report, the report that you
21 brought to Peter about concealing missing loan
22 documents, that Wells Fargo considered that report
23 in deciding to issue the informal warning on August
24 26th?

25 A. I'm not sure what Wells Fargo do.



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1 Q. Well, go ahead and look at the document,
2 Mr. Tran. There are several concerns listed within
3 the document: Failure to follow instructions,
4 failure to follow department processes and
5 procedures, unprofessional communications. And what
6 I'm asking is if you have any information that Wells
7 Fargo did not honestly believe that you had engaged
8 in the conduct listed.

9 A. I don't remember the document, what Peter
10 wrote in there. I did not recognize -- I don't
11 remember this.

12 Q. Okay. Well, that's not what I'm asking.
13 Let's -- Let's go step by step.

14 Do you have any information that Wells
15 Fargo did not honestly believe that on 06/25 and
16 09/09 you refused to meet with leadership when
17 asked?

18 MS. STEPHENSON: Objection. Lack of
19 foundation. Calls for speculation.

20 THE WITNESS: I said I did not remember.
21 I'm sorry.

22 Q. BY MS. LIVELY: You just don't remember
23 whether that happened one way or the other?

24 A. I don't remember.

25 Q. Okay. What about on 09/12? Do you



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1 remember whether you refused to attend the team

2 meeting and take -- and instead continue to take

3 inbound calls?

4 A. That, I did not know.

5 Q. Does that mean you just don't remember one

6 way or another?

7 A. I did not know. I don't remember in that

8 time. I apologize.

9 Q. No, it's okay. You don't need to
10 apologize. If you -- If you don't remember, you can
11 just tell me you don't remember.

12 A. Yes.

13 Q. I just need to get the best memory of
14 whatever you have.

15 Is there anything that you could look at,
16 that would help refresh your memory as to whether
17 you missed a team meeting on September 12th and
18 continued to take inbound calls?

19 A. That, I do not remember. It been for a
20 while -- for a while. I'm so sorry.

21 Q. Right. No, I understand.

22 Is there anything that you think you could
23 look at that would help you remember?

24 A. Not that I can think of at this time.

25 Q. Okay. The next item listed is on August



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1 26th, 2014: "Worked on personal items during
2 after-call work, after being reminded that
3 after-call work is solely for finishing up account
4 notes."

5 Do you have any information -- Strike
6 that.

7 Do you have any recollection of whether
8 you worked on personal items during after-call work
9 on August 26th, 2014?

10 A. And that something I cannot remember.

11 Q. You just can't remember one way or
12 another?

13 A. It's been for a long time, so I don't
14 know.

15 Q. That's okay. If you can't remember, you
16 can just say "I don't remember."

17 A. Yes.

18 Q. Is there anything that you can look at
19 that would help you remember?

20 A. Not that I can look to today.

21 Q. Is there anything that's -- I know you --
22 "nothing today"; but is there anything out there,
23 between now and trial, that you think might help jog
24 your memory?

25 A. Not that I recall at the time.



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1 Q. Okay. And then the next entry is
2 September 18th, 2014, says: "Reset your after-call
3 work time so that it appeared shorter than your
4 actual after-call work."

5 Do you have any reason to dispute that?

6 A. I did not understand what did that mean.
7 I'm sorry.

8 Q. Well, it's saying that your after-call
9 work was set at a certain time, and then you reset
10 the clock so that it appeared as if you were in a
11 lesser amount of after-call work.

12 MS. STEPHENSON: Objection. Lack of
13 foundation. Assumes facts not in evidence.

14 THE WITNESS: Yeah, I did not know about
15 this. And I don't remember about the system.

16 MS. LIVELY: Okay.

17 THE WITNESS: I apologize.

18 MS. LIVELY: Let's go ahead and mark this.

19 (Exhibit 82 marked.)

20 Q. BY MS. LIVELY: Mr. Tran, the court
21 reporter has handed you what's been marked as
22 Exhibit 82, which includes an e-mail from Cheryl
23 Weinfurtner to Mr. LeDonne, dated September 18th,
24 2014.

25 Have you seen this document before today?



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1 A. May I read it?

2 Q. Yes, please.

3 A. Yeah, I do not remember.

4 May I ask who Cheryl Weinfurtner is?

5 Q. She's the customer service team lead.

6 A. This is something I don't remember; but
7 possible, yes.

8 Q. Okay. Do you have any reason to believe
9 that Ms. Weinfurtner was being untruthful in the
10 e-mail that she sent on September 18th?

11 A. I'm not sure what she thinking at that
12 time. I apologize.

13 Q. Do you remember whether you reset your
14 after-call work -- you reset the clock so it went
15 from 16 minutes to zero, on September 18th, 2014?

16 A. I did not remember that. I forget about
17 the system I was working on.

18 Q. Okay. So you're not saying it didn't
19 happen; you're just saying you don't remember?

20 A. I don't remember.

21 Q. Okay.

22 A. And I'm not sure who she is.

23 Q. Okay. The next entry is nine twenty --
24 and we're going back to Exhibit 81. The next entry
25 is 09/23/14: "Refused to offer available



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1 A. Yes.

2 Q. And are you saying that the phrase
3 "end-of-term options" is something that you don't
4 understand?

5 A. Yeah, I did not understand the word
6 "end-of-term option." If the balloon ended the
7 term, then we give the customer the option to apply,
8 or we go to foreclosure, or...

9 Q. You would go to foreclosure on the end of
10 a home equity balloon?

11 A. The balloon would go to collection, then
12 it would go to foreclosure, unless -- I'm not sure
13 what the next step is.

14 Q. The next two entries are for
15 unprofessional communications on September 10th and
16 September 11th.

17 Do you recall those? They were instant
18 message chats.

19 MS. STEPHENSON: Objection. Lack of
20 foundation. Assumes facts not in evidence.

21 Q. BY MS. LIVELY: Do you recall that?

22 A. I did not remember that, no. I'm sorry.

23 Q. Are you saying it didn't happen, or are
24 you just saying you don't recall?

25 A. I did not remember in that time.



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1 Q. Now that we've looked at all the items
2 that are included in your informal warning, do you
3 have any information -- as you sit here today, what
4 information do you have that Wells Fargo did not
5 honestly believe the reasons set forth for your
6 informal warning?

7 MS. STEPHENSON: Objection. Lack of
8 foundation. Assumes facts not in evidence. Calls
9 for speculation.

10 THE WITNESS: I did not remember at that
11 point in time. I'm sorry.

12 Q. BY MS. LIVELY: Do you have any
13 information that Wells Fargo did not honestly
14 believe the reasons stated for your informal
15 warning?

16 A. I did not recall. I did not remember.

17 Q. Is there anything that would help you
18 recall?

19 A. Not that I know of.

20 Q. And was your rate of pay reduced as a
21 result of the informal warning?

22 A. I apologize. Can you explain one more
23 time.

24 Q. Certainly. Your hourly rate of pay, was
25 that reduced as a result of the informal warning?



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1 A. No, ma'am.

2 Q. And were the benefits that are available
3 -- were available to you, changed as a result of the
4 informal warning, like your 401(k), your health
5 insurance?

6 A. For the benefit?

7 Q. The benefits.

8 A. Yes, ma'am.

9 Q. Did those change as a result of the
10 informal warning?

11 A. No, ma'am.

12 Q. And did the number of hours that you
13 worked change as a result of the informal warning?

14 A. No, ma'am.

15 Q. And did your job duties get changed as a
16 result of the informal warning?

17 A. No, ma'am.

18 (Sotto voce remarks.)

19 Q. BY MS. LIVELY: Mr. Tran, do you have any
20 information or evidence that your report of -- your
21 report to Peter LeDonne that it was inappropriate to
22 conceal missing documents was a factor that Wells
23 Fargo considered in issuing you your informal
24 warning?

25 MS. STEPHENSON: Objection. Calls for



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1 speculation. Calls for a legal conclusion.

2 THE WITNESS: That, I do not remember,

3 Counselor.

4 MS. LIVELY: As you sit here today, do you

5 have any information that you believe connects your

6 report about concealing lost documents to the

7 informal warning?

8 MS. STEPHENSON: Same objections.

9 THE WITNESS: I don't -- I do not know.

10 (Exhibit 83 marked.)

11 Q. BY MS. LIVELY: Mr. Tran, the court
12 reporter has handed you what's been marked as
13 Exhibit 83, which is a document titled "team member
14 intermittent request form."

15 Do you recognize this document?

16 A. May I read it, ma'am?

17 Q. Yes.

18 A. I apologize. I don't have my glasses
19 today.

20 Q. Oh.

21 A. I forgot them.

22 Q. Hard day to not have your glasses.

23 A. Yes.

24 Q. And it appears that, on this document,
25 that you submitted it or signed it on August 5th,



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1 you know, checking account -- When I came over to
2 ask Peter, Peter totally ignore me, tell me to
3 looking for something else.

4 Q. When did -- When did Peter's treatment of
5 you change? When did you notice that it changed, or
6 was he always rude to you?

7 A. Peter and I get along really good at
8 first. Then after the missing document, the April
9 sent out, I was concerned about business at that
10 point, the CMP disputing, Peter start treating me
11 different.

12 Q. And the CMP dispute, was that the informal
13 warning that we just looked at?

14 A. The one that was something that was
15 overturned. I'm not sure.

16 Q. Okay. Because you received an informal
17 warning on August 26th for your CMP results. That's
18 the one you disputed and something within that got
19 overturned?

20 A. I did not remember. I'm not sure, June or
21 August, but start from that point in time, between
22 May, all the way up, and then start Peter and
23 Kimberly being strict with me.

24 Q. Why did you tell Glenda Longren that it
25 all started after you took family leave, FMLA leave?



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1 now than you did two years ago?

2 A. It's hard for me to remember now. It's
3 been for a while.

4 Q. Well, that's what I'm asking. I'm asking
5 if your e-mails that you sent at the time would be a
6 more accurate reflection of what was going on than
7 your memory now.

8 A. I don't remember.

9 Q. It's not a memory question. It's a do you
10 think your -- Do you think your e-mails were
11 accurate at the time that you wrote them?

12 A. I sent a lot of e-mails. I didn't recall
13 until you show it to me.

14 Q. Right. And what I'm asking is: Were you
15 truthful in your e-mails at the time that you sent
16 them?

17 A. That's yes.

18 Q. After you complained about discrimination
19 and harassment, do you believe that Wells Fargo took
20 any negative employment actions against you because
21 of that complaint?

22 MS. STEPHENSON: Objection. Calls for
23 speculation. Assumes facts not in evidence.

24 THE WITNESS: I did not know what Wells
25 Fargo did.



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1 Fargo took a negative action against you because you
2 made a complaint of discrimination or harassment?

3 A. Can you explain to me. I apologize. I
4 have a lot of question.

5 Q. Yeah. You made a lot of complaints while
6 you worked for Wells Fargo. We talked about the
7 family leave medical -- Oregon Family Leave Act, the
8 Family Medical Leave Act. We've talked about the
9 missing customer documents.

10 The complaint I'm specifically talking
11 about now is the complaint that Peter was treating
12 you differently because you're Asian. Okay?

13 After you made that complaint, do you
14 believe that Wells Fargo took a negative action
15 against you because you made that complaint?

16 MS. STEPHENSON: Objection. Asked and
17 answered.

18 THE WITNESS: That, I don't know what
19 Wells Fargo did to me -- or, I mean, what Wells
20 Fargo did. I did not know what they do.

21 Q. BY MS. LIVELY: Well, what I'm trying to
22 find out is: What's the basis for your claim in
23 this lawsuit, that you got retaliated against for
24 making a complaint of race or national origin
25 discrimination?



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1 Do you think that that complaint,
2 complaining that Peter was discriminating against
3 you because you were Asian, do you think Wells Fargo
4 took some negative action against you because you
5 made that complaint?

6 MS. STEPHENSON: Objection. Assumes facts
7 not in evidence.

8 THE WITNESS: I did not know what Wells
9 Fargo do, and I do not know what Wells Fargo
10 thinking to do.

11 Q. BY MS. LIVELY: So, as you sit here today,
12 do you have any information that Wells Fargo took a
13 negative action against you because you made a
14 complaint of race or national origin discrimination?

15 A. I did not know what Wells Fargo did. I'm
16 sorry.

17 Q. Well, I'm trying to find out if you have
18 any information that you believe supports that idea.

19 A. I do not know.

20 Q. Okay. Do you have any information that
21 Wells Fargo had a company-wide policy to conceal the
22 fact that customer loan documents were missing?

23 A. I don't know what Wells Fargo did on their
24 part.

25 Q. The only document you saw was an e-mail --



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1 on the subject, was an e-mail from Caz Moreland;

2 correct?

3 A. That's the one e-mail they sent to it me,

4 yes.

5 Q. And so what I'm asking is: Do you have

6 any information that that was part of a company-wide

7 policy?

8 A. Not that I recall.

9 Q. And previously we had -- you had told me

10 about discussion -- a discussion you had with Peter

11 regarding the missing loan documents, where he told

12 you not to tell customers that the loan documents

13 were missing.

14 Did you raise that concern to any managers

15 above Peter?

16 A. I discuss with Alan Rose in his office,

17 and he told me that the senior management handle it

18 and he wanted me to focus, you know, to do my job.

19 Q. What's your best recollection of what you
20 told Mr. Rose on that subject?

21 A. I apologize. Say it one more time.

22 Q. Sure. I'm trying to get your best memory
23 of what you told Mr. Rose about the missing loan
24 documents.

25 If you -- Again, if you were going to be



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1 testifying at trial and your attorney were to say to
2 you, "Mr. Tran, please tell the jury what you told
3 Mr. Rose about missing documents, the missing
4 documents," what would you say?

5 A. The e-mail was sent out and there was a
6 supervisor or management said that came from the
7 senior management. So that what -- I'm not sure
8 where it came from; but when it said senior
9 management, so Alan is the higher up in the
10 department.

11 Q. So in the conversation you had with Alan
12 in his office, how did you raise the issue? How did
13 you bring that up, the missing loan documents issue?
14 What did you say to him?

15 A. It's been for a while. I don't remember.
16 I met him a few times, so I don't remember. Sorry.

17 Q. Do you -- Do you have any memory of what
18 you said to him?

19 A. I would talk to him about just CMPs and a
20 lot of concern, but I don't remember. It's a few
21 topic, but I forgot about it.

22 Q. Okay. And I'm just focusing on the
23 missing loan documents piece right now.

24 Do you remember what you told Mr. Rose
25 about that issue?



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1 A. I did told him about that.

2 Q. Right. I'm trying to find out what you

3 told him, what you remember telling him.

4 A. About the missing documents?

5 Q. Yes.

6 A. "We don't have the document," and, "How we

7 handle this?"

8 Q. Okay. Tell me about that conversation.

9 What did you say to him?

10 A. He's told me that is --

11 Q. What -- What did you say to him? How did

12 you bring it up?

13 A. I -- I don't remember; it's been for a

14 while. But I did talk to Alan.

15 Q. Okay. Is there anything that you could
16 look at that would help you remember what you said
17 to Mr. Rose about the missing loan documents?

18 A. Not that I recall now.

19 Q. Okay.

20 A. It been for a while.

21 Q. And your recollection is that Mr. Rose

22 told you not to worry about that; to let senior

23 management deal with it?

24 A. Yes.

25 Q. Do you recall him saying anything else?



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1 A. He told me he's -- he will meet with the
2 team management from -- from meeting, something like
3 that. I talk to him a few times, so I'm not sure I
4 remember it.

5 Q. Do you have any information that Kimberly
6 Thrush was aware that you had complained about the
7 practice of concealing from customers that their
8 loan documents were missing?

9 A. I apologize. Can you explain one more
10 time.

11 Q. Yeah. Do you have any information -- You
12 said you talked to Peter about the issue, and you
13 said that you talked to Mr. Rose about the issue.

14 Do you have any information that Kimberly
15 Thrush was aware that you had voiced concerns to
16 either Mr. LeDonne or Mr. Rose about the missing
17 loan document issue?

18 A. I did not know Kimberly aware or not.

19 Q. What about Toni Arnold? Do you know who
20 she is?

21 A. I don't remember who she is.

22 Q. Do you have any information that she was
23 aware that you had expressed concerns about
24 concealing customer loan documents?

25 A. I don't remember who she is.



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1 (Pause.)

2 THE WITNESS: May I go to the restroom?

3 MS. LIVELY: Oh, of course. Let's take a
4 break.

5 THE WITNESS: Thank you.

6 THE VIDEOGRAPHER: Going off the record.
7 The time is 4:55 p.m.

8 (Recess.)

9 THE VIDEOGRAPHER: Going back on the
10 record. The time is 5:02 p.m.

11 Q. BY MS. LIVELY: We're back on the record
12 in this matter.

13 Mr. Tran, do you realize you are still
14 under oath?

15 A. Yes, ma'am.

16 Q. During the time that you worked for Wells
17 Fargo, did you report your concerns about document
18 concealment to anyone outside the bank?

19 A. I apologize. Can you repeat it one more
20 time.

21 Q. Yeah. Did you -- Did you make a report to
22 the police, for instance, that you thought Wells
23 Fargo was engaging in some sort of unlawful
24 behavior?

25 A. No, ma'am.



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1 Q. What about the Securities and Exchange

2 Commission? Did you report Wells Fargo to the

3 Securities and Exchange Commission?

4 A. I apologize. I did not know what Security

5 Exchange is.

6 Q. What about the Department of Justice?

7 I'm trying to find out if you -- if you

8 reported what you considered to be unlawful conduct

9 to any agency outside of Wells Fargo.

10 A. You mean myself --

11 Q. Yes.

12 A. -- or with the complaint?

13 Q. No. Yourself.

14 A. No, ma'am.

15 Q. Okay. You started working for Wells Fargo
16 as a collector 2 on February 16th, 2004; is that
17 correct?

18 A. Yes, ma'am.

19 Q. And I will tell you that I'm looking at
20 Exhibit 62, if you want to look at it, which is just
21 your employee information sheet.

22 A. Sixty-two?

23 Q. Yes.

24 MS. STEPHENSON: It should be in there
25 somewhere.



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1 STATE OF OREGON)
2) SS.
3 COUNTY OF MULTNOMAH)

4 I, MARILYNN HOOVER, CSR No. 04-0387 for the
5 State of Oregon, do hereby certify:

6 That prior to being examined, the witness named
7 in the foregoing deposition was duly sworn to
8 testify the truth, the whole truth, and nothing but
9 the truth;

10 That said deposition was taken down by me in
11 shorthand at the time and place therein named, and
12 thereafter reduced by me to typewritten form; and
13 that the same is a true, correct, and complete
14 transcript of the said proceedings.

15 Before completion of the deposition, review of
16 the transcript [X] was [] was not requested. If
17 requested, any changes made by the deponent (and
18 provided to the reporter) during the period allowed
19 are appended hereto.

20 I further certify that I am not interested in
21 the outcome of the action.

22 Witness my hand this 23rd day of May 2017.

Marilynn Hoover

23
24 MARILYNN HOOVER, RPR

25 CSR No. 04-0387; Exp. 03/31/2020

